

**ORDINANCE NO. 1947**

**AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, REPEALING CHAPTER 8.25 ("ACCUMULATION, TRANSPORTATION AND DISPOSAL OF WASTE MATTER") AND ADOPTING A NEW CHAPTER 8.25 ("ACCUMULATION, TRANSPORTATION AND DISPOSAL OF SOLID WASTE") OF TITLE 8 ("HEALTH AND SAFETY") OF "THE CODE OF THE CITY OF SANTA CLARA, CALIFORNIA" TO INCORPORATE NEW STATE MANDATES AND LONG STANDING CITY RULES AND REGULATIONS**

**BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

**WHEREAS**, the City of Santa Clara currently has regulations regarding the accumulation, transportation and disposal of solid waste to ensure the health and safety of the City's residents, business owners and visitors;

**WHEREAS**, those regulations are compiled in Chapter 8.25 ("Accumulation, Transportation and Disposal of Waste Matter") of "The Code of the City of Santa Clara, California" ("SCCC") and in less formal rules and regulations as promulgated by City staff;

**WHEREAS**, due to new state mandates related to phased organic waste hauling for commercial businesses, it is necessary to revise Chapter 8.25 SCCC; and,

**WHEREAS**, for increased transparency for the general public and ease of reference, the less formal rules and regulations are incorporated into the revised Chapter 8.25 SCCC.

**NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

**SECTION 1:** That the City Council hereby finds that the above Recitals are true and correct and by this reference makes them a part hereof.

**SECTION 2:** That the current Chapter 8.25 SCCC ("Accumulation, Transportation and Disposal of Waste Matter") be repealed in its entirety.

**SECTION 3:** That a new Chapter 8.25 (“Accumulation, Transportation and Disposal of Solid Waste”) is added to Title 8 (“Health and Safety”) of “The Code of the City of Santa Clara, California” (“SCCC”) to read as follows:

**“Chapter 8.25**

**ACCUMULATION, TRANSPORTATION AND DISPOSAL OF SOLID WASTE**

Sections:

- 8.25.010 Definitions.
- 8.25.020 Declaration of policy.
- 8.25.030 Disposal of refuse on public property or on private property of another.
- 8.25.040 Storage and accumulation of refuse on property of owner or occupant.
- 8.25.050 Removal of refuse by persons.
- 8.25.060 Owner may contract for special collection services.
- 8.25.070 Spillage or leakage of refuse.
- 8.25.080 Containers required - Description, storage and labeling.
- 8.25.090 Number of containers required.
- 8.25.100 Requirements for new developments and retrofits.
- 8.25.110 Collection hours, quietness of collections and collection equipment.
- 8.25.120 Frequency of collection.
- 8.25.130 Liability for payments of service.
- 8.25.140 Penalty for failure to pay for refuse service.
- 8.25.150 Administration by City Manager.
- 8.25.160 Inspection of premises.
- 8.25.170 Disposal of dangerous materials or substances or hazardous wastes.
- 8.25.180 Property interest in refuse removed.
- 8.25.190 Authorized persons for refuse collection.
- 8.25.200 Contract required.
- 8.25.210 Application - Filing, contents.
- 8.25.220 Public hearing requirements.
- 8.25.230 Duty of applicant - Publication expenses.
- 8.25.240 Notice of hearing-Publication of notice-Time for hearing.
- 8.25.250 Public hearing requirements-Protests-Considerations-Grant of contract.
- 8.25.260 Duty to maintain books.
- 8.25.270 Violation by grantee-Liability for damages to the City-Liability for operating without a contract.
- 8.25.275 Mandatory recycling.
- 8.25.276 Mandatory Organic Waste Recycling
- 8.25.280 Recyclable material - Deposit and collection.
- 8.25.285 Construction and demolition debris recycling.
- 8.25.290 Clean Green.

- 8.25.300 Clean-up Campaign.
- 8.25.310 Responsibility for enforcement.
- 8.25.320 Violation.
- 8.25.330 Violations for disposal of refuse.

**8.25.010 Definitions.**

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

(a) "A" definitions:

(1) "Applicant" means any individual, firm, limited liability company, association, partnership, government agency, municipality, industry, public or private corporation or any other entity whatsoever who applies to the City for the applicable permits to undertake construction, demolition or renovation projects within the City.

(b) "B" definitions

(1) "Bulk Bag" means a durable sack with four lift loop handles and flat bottom designed to hold construction and demolition materials, with a capacity of no more than one cubic yard.

(c) "C" definitions:

(1) "City Manager" means the City Manager of the City or a duly appointed representative designated by the City Manager.

(2) "Clean Green" means Green Waste that is placed in a Container provided and serviced by the City or its designated Collector.

(3) "Clean-up Campaign" means a special collection program for residents to dispose of bulky items and Green Waste.



(4) "Collector" means the City or any exclusive or nonexclusive franchise hauling contractor duly authorized by the City Council to collect, transport and dispose of Refuse under specific contract terms with the City.

(5) "Commercial" means the designated zoning for commercial, professional office or general office development as shown on the official zoning map of the City.

(6) "Commercial Business" means any firm, limited liability company, association, partnership, government agency, municipality, industry, public or private corporation occupying property zoned for commercial, industrial, institutional or mixed use on the official zoning map of the City.

(7) "Compostable Material" means organic refuse that can be biologically degraded or transformed under controlled conditions designed to promote aerobic decomposition.

(8) "Composting" means the biological degradation and transformation of organic refuse under controlled conditions designed to promote aerobic decomposition.

(9) "Construction and Demolition Debris" or "C&D debris" means used or discarded materials removed from the premises during a construction, demolition or renovation of a structure resulting from construction, remodeling, repair or demolition operations on any pavement, Residential structure, Commercial building or other structure.

(10) "Construction and Demolition Debris Materials Check-off List" means a report submitted by the Applicant when obtaining a construction or demolition permit that identifies the various types of construction and demolition debris that will be generated as a result of any covered project.

(11) "Construction and Demolition Debris Recycling Report" means a report prepared that identifies the amounts of all construction and demolition debris generated as a result of a covered project, and the amounts recycled or diverted.

(12) "Container" means all types of receptacles used for the storage of Refuse including but not limited to carts, front-load roll-off bins, drop body debris bins and compactors.

(13) "Contamination" means the placement of non-recyclable materials into a Container designated for Recycling, or material that is not compostable in a Container designated for Clean Green or Organic Waste.

(d) "D" definitions:

(1) "Disposal" means the final disposition of Refuse at a Landfill or other Permitted Disposal Facility, as defined in California Public Resources Code Section 40192.

(2) "Divert" means to use material for any purpose other than a Landfill or transformation facility.

(e) "E" definitions:

(1) "Enclosure" means a structure designed to store Containers.

(f) "F" definitions:

(1) "Food Establishment" means any establishment that sells or otherwise provides prepared food for consumption on or off its premises, and includes, but is not limited to, restaurants, bars, pubs, coffee shops, cafeterias, caterers, convenience stores, liquor stores, grocery stores, supermarkets and delicatessens.

(2) "Food Waste" means unused and discarded solid food products/scraps including, but not limited to, vegetables, fruits, meat, fish, shells, bones, cheese, bread, paper-based tea bags and coffee grounds. Food Waste is an Organic Waste.

(g) "G" definitions:

(1) "Garbage" means all classes of Refuse that are not recycled or recovered through Composting or anaerobic digestion process and is disposed of in a Landfill or other Permitted Disposal Facility.

(2) "Green Waste" means a broad subset of Compostable Materials that includes lawn and shrubbery clippings, weeds, leaves, tree limbs, wood and other similar waste materials that are rejected, abandoned or discarded by the owner or producer of materials.

(h) "H" definitions:

(1) "Hazardous Waste" means a waste with properties that make it potentially dangerous or harmful to human health and the environment as classified by the Resource Conservation and Recovery Act.

(i) "I" definitions:

(1) "Industrial" means the designated zoning for industrial development as shown on the official zoning map of the City.

(2) "Institutional" means the designated zoning for public or quasi-public development as shown on the official zoning map of the City.

(j) Reserved for future use.

(k) Reserved for future use.

(l) "L" definitions:

(1) "Landfill" means a Permitted Disposal Facility that is used for the disposal of Garbage.

(2) "Litter" means, but it is not limited to, plastic, paper, cigarette butts, floor sweepings, trash, rubbish, food, cloth, metal, recyclable material, or other waste matter that is not properly stored in a Container or Trash Bag.

(m) "M" definitions:

(1) "Material Recovery Facility" means a facility that processes mixed types of Refuse for the purpose of removing Recoverable Materials for Recycling, Composting or other landfill diversion activity.

(2) "Mixed Use" means the designated zoning for mixed use as shown on the official zoning map of the City.

(3) "Mixed Waste Processing" means the process of removing Recyclable materials or Compostable Material from loads of mixed Refuse before sending the Garbage to a Landfill for Disposal.

(n) Reserved for future use.

(o) "O" definitions:

(1) "Organic Waste" means organic materials, including, but not limited to, materials generated from tree trimmings, shrubbery, pruning, vegetable garden waste, dead plants, weeds, leaves, grass clippings, Food Waste, non-food vegetative matter, soiled paper and cardboard that decomposes biologically.

(p) "P" definitions:

(1) "Permitted Disposal Facility" means any facility, duly approved by the State of California, which is authorized to accept the disposal of specific types of Refuse.



(2) "Push/Pull Service" means a service offered by a Collector for a fee in which the Collector moves a Container from its storage location to a service point, and returns the Container to the storage location after servicing.

(q) Reserved for future use.

(r) "R" definitions:

(1) "Recoverable Material" means all materials that have the potential to be recovered from Refuse Containers for Recycling, Composting, anaerobic digestion or other processes. This material includes, but is not limited to: Green Waste, Food Waste, plastics, glass, white paper, newspaper, mixed paper, cardboard, electronics, scrap metals and miscellaneous types of Construction and Demolition Debris.

(2) "Recyclable" means all Recoverable Material that is recycled and made into a new product, but does not include Recoverable Material that is not recycled.

(3) "Recycling" means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become Garbage and returning them to the economic mainstream in the form of raw material for new, reused or reconstituted products which meet the quality standards necessary to be used in the marketplace. The collection of organic materials for the purpose of Composting or conversion to biogas are considered recycling programs.

(4) "Refuse" means all classes of solid waste generated in the City, including all waste matter and materials, putrescible or non-putrescible, solid or liquid wastes, except sewage, whether combustible or noncombustible, including Garbage, Recyclable materials, and Organic Waste, and excluding Hazardous Waste.



(5) "Residential" means the designated zoning for residential development as shown on the official zoning map of the City, or other property used for single-family or multi-family residential purposes, regardless of zoning designation.

(6) "Responsible Party" means an individual or entity that is responsible for implementing and paying for Refuse collection services at a Residential or Commercial Business property.

(7) "Reuse" means the further or repeated use of materials, including but not limited to C&D debris.

(s) "S" definitions:

(1) "Salvage" means the controlled removal of C&D debris from a permitted building or demolition site for the purpose of Recycling, reuse or storage for later Recycling or reuse.

(2) "Self-haul" means a Responsible Party who transports Refuse to a Permitted Disposal Facility using their own vehicle and employees rather than using a franchised hauler.

(3) "Single-stream Recycling" means a Recycling program offered by Collectors in which generators place multiple types of non-construction and demolition Recoverable Materials in a single Container that is designated specifically for Recyclable materials and is taken to a Material Recovery Facility for processing.

(4) "Source-separated Recycling" means a Recycling program offered by Collectors in which generators place a single type of recyclable or Compostable Material in a Container designated specifically for that material.

(t) "T" definitions:

(1) "Trash Bag" means a clear plastic bag designated as the proper protective storage unit for Food Waste placed into an Organic Waste Recycling Container.

(u) Reserved for future use.

(v) Reserved for future use.

(w) Reserved for future use.

(x) Reserved for future use.

(y) Reserved for future use.

(z) Reserved for future use.

**8.25.020 Declaration of policy.**

The City Council finds that it is beneficial and in the interest of the health, safety, and welfare of all citizens of the City that there be a comprehensive system for the periodic collection, removal and Disposal of all Refuse from all premises in the City. The charges levied pursuant to this chapter are a charge for the privilege of having Refuse collection, removal, and Disposal service and are to be paid regardless of whether the privilege is actually used.

**8.25.030 Disposal of refuse on public property or on private property of another.**

(a) No person shall store, collect, haul, transport, or dispose of any Refuse contrary to the provisions of this chapter.

(b) No person shall throw, drop, leave, dump, bury, burn, place, keep, accumulate or otherwise dispose of any Refuse upon public property or the private property of another with or without permission or approval of the property owner, except in conjunction with special collections programs specifically approved by the City Council.

**8.25.040 Accumulation of refuse on property of owner or occupant.**

(a) No owner or occupant of property shall permit the accumulation of Refuse or Hazardous Waste on such property.

(b) The City reserves the right to require property owners to provide and maintain Enclosures for Garbage, Recycling and Clean Green Containers whenever such Enclosures are necessary to prevent Litter, restrict access to Containers, preserve the health, safety and welfare of the public, or enhance aesthetic appearance.

(c) The location and Enclosure of all Containers shall be easily accessible and maintained free of Litter, uncontained Garbage, or other materials.

(d) Enclosure requirements for Containers servicing various classes of property are set forth in the City Zoning Code Ordinance (SCCC Title 18), as amended from time to time.

**8.25.050 Removal of refuse by persons.**

(a) Any owner or occupant of a property zoned for Residential, Institutional, or Commercial use, subject to the exceptions provided in subsection (b) of this section, must use the collection services provided by the City under its collection programs and the City's exclusive franchise Collector.

(b) Notwithstanding the provisions of subsection (a) of this section, a person who is not a Collector may dispose of Refuse as follows:

(1) Any person may Self-haul and dispose of Refuse from his/her own private residence to a Permitted Disposal Facility.

(2) Any person may engage in Composting of Organic Waste for use on that person's premises.



(3) Any owner or occupant of properties zoned for "Industrial" use may dispose of Refuse generated on such property, or cause it to be removed from the property and disposed of at a Permitted Disposal Facility. Said person may either enter into a private agreement with a Collector to have his/her Refuse removed and disposed of or he/she may remove and dispose of such Refuse himself/herself, utilizing his/her own employees. Any such private arrangement for the Disposal of Refuse in Industrial zones must be in accordance with this chapter and City's agreements with Collectors.

(4) Any owner or occupant of Commercial or Institutional property may haul its own Refuse, utilizing its own employees and equipment, from the premises occupied by it or under its control and dispose of such Refuse at a Permitted Disposal Facility subject to such conditions as the City Council finds appropriate.

(5) Any Refuse produced or created on property owned by the City, the Sports and Open Space Authority of the City of Santa Clara, the City of Santa Clara Housing Authority or the Santa Clara Stadium Authority may be hauled by the City, by a person legally permitted to operate a business located on such property, either personally or by utilizing his/her own employees, or by a Collector authorized by the City Council to haul and dispose of such Refuse pursuant to the provisions of this chapter.

(6) A person who is engaged in the business of gardening or tree trimming, and a person who is engaged in building construction or building demolition, and is in either case in possession of a valid business license issued by the City, is authorized to remove and dispose of Green Waste or Refuse, respectively, produced by such business activity itself; provided, that in all of such cases such Disposal shall be made at an Permitted Disposal Facility.

(7) The removal and Disposal of Refuse by any person pursuant to this section shall not relieve such person from the requirements of any applicable City ordinance or resolution, or from the requirement of the payment of minimum Refuse service, or other applicable charge.

(8) Any Collector may haul or dispose of recyclable material; provided, that such Collector purchases such materials or does not charge the person who generates such materials, directly or indirectly, by way of service fees, bin or Container rentals or otherwise, for such service.

(9) A person who is collecting food or other items for the purpose of a charitable donation.

(10) All of the persons subject to the exceptions stated in this section must be in full compliance with all applicable Federal and State laws, City ordinances and resolutions, including this chapter.

(c) A Collector shall dispose of Refuse in accordance with the provisions of this chapter and its applicable franchise contract.

**8.25.060 Owner may contract for special collection services.**

Subject to the provisions of SCCC 8.25.050, any owner or occupant of any premises may contract with its Collector for special services over and above regular services provided by the Collector.

**8.25.070 Spillage or leakage of refuse.**

No person or Collector shall allow any Refuse of any kind whatsoever to leak, spill, blow or drop from any vehicle operated or controlled by such person or Collector in the City on any public street or place within the city.

**8.25.080 Containers required - Description, storage and labeling.**

(a) Containers shall be used to store, until collected, accumulated Garbage, Refuse, Recyclable materials, Organic Waste or Clean Green in such a manner that will not create a public health, vector or nuisance problem.

(b) All Containers shall have lids that remain tightly closed while Containers are stored in an Enclosure or within the side or rear yard of the premises, and when Containers are set out for collection. Containers shall be placed so as to avoid spilled liquid or materials being discharged into the storm drainage system and/or City right of way or street.

(c) It shall be unlawful for any person occupying any premises within the city, or for any person owning, controlling, or maintaining any premises within the city where Refuse is created, produced, or accumulated, to:

(1) Fail or neglect to procure and maintain a sufficient number of Containers for receiving and holding all Refuse that is produced, created, or accumulated on the premises during one week, unless a more frequent collection schedule is provided to such premises. If a more frequent collection schedule is provided, the number of Containers must be sufficient to hold the Refuse generated during the shorter period.

(2) Fail or neglect to place, keep, and maintain each and every Container within an Enclosure or within the side or rear yard of the premises where the Refuse is produced.

(d) All Containers shall be stored in an Enclosure or within the side or rear yard of the premises. Containers shall not be set-out upon the public right-of-way in front of said premises prior to 5:00 PM the day prior to collection. Containers must be removed from the public right-of-way on the collection day, after service.



(e) Collectors shall label all Containers with the name of the Collector and a customer service phone number, and maintain Containers free of graffiti.

(f) All Refuse shall be stored in Containers except at times when the City Council shall authorize the placement of certain types Refuse upon the public right-of-way without Containers. Containers shall be at all times kept in good, safe, usable, and sanitary condition.

(g) The City Manager or designee may direct a Collector to clean or change out Containers that are producing odors. The Responsible Party shall reimburse the Collector for this service. Waste water generated from the cleaning operation must be disposed via the sanitary sewer.

**8.25.090 Number of containers required.**

(a) For the purpose of this section, a Container is deemed to have a capacity of no less than twenty (20) gallons liquid measure. In determining the sufficiency of the number of Containers required for any of the following places or premises, the following minimum standards shall apply:

(1) Single-family Residential users shall have no less than one Container with a minimum capacity of 20 gallons.

(2) Apartment houses, duplexes, condominiums, and other types of multifamily Residential buildings shall have no less than one Container or its equivalent per dwelling unit.

(3) Motels, hotels, trailer parks, or mobile home parks shall have no less than one Container or its equivalent per unit or space.

(b) Where insufficient Containers are maintained on premises to hold all Refuse created, produced, or accumulated on a place or premises to the detriment of the health, safety,

and welfare of the public, the City Manager may require a higher level of service, including Push/Pull Service, increased Container size, or increased collection frequency, and the cost of said service shall be paid for by the occupant of the premises or the owner of unoccupied premises.

**8.25.100 Requirements for new developments and retrofits.**

(a) New Commercial developments shall provide collection trucks a minimum straight approach clearance of 40 feet, 40-foot turning radius, and height clearance of no less than 14.5 feet in drive-mode, and 20 feet for service mode. Private roads shall be constructed to accommodate weights of 60,000 pounds.

(b) New single-family Residential developments shall accommodate a minimum turning radius of 33 feet (66 feet curb to curb to allow for a 180 degree turn).

(c) All new solid waste Enclosures shall meet the following specifications:

(1) Drain to sanitary sewer, or be covered and located 25 feet or more from any storm drain inlet.

(2) Entrance shall have a slope with a minimum gradient of 2% but no greater than 4% to prevent outside stormwater runoff from entering the Enclosure.

(3) A double, swinging gate with bollards or J-hooks shall be installed at the front of the Enclosure to provide a minimum of 120-degree swing area and a minimum, unobstructed inside opening of 12-feet.

(4) Inside area shall be large enough to store at least three Containers, one for Garbage, one for Recycling, and one for Organic Waste.

(5) Have a six-inch thick minimum, reinforced concrete pad to accommodate no less than 40,000 pounds. The approach/point of service shall have a 12-foot wide and eight-inch thick minimum, reinforced concrete pad to accommodate no less than 60,000 pounds.

(d) Food Establishments shall place tallow bins within the Enclosure when possible. If Enclosure is not sized to include the tallow bin(s), a separate dedicated Enclosure with drainage to sanitary sewer shall be provided.

**8.25.110 Collection hours, quietness of collections and collection equipment.**

(a) Refuse collection shall not occur after 6:00 PM or prior to 7:00 AM at or adjacent to properties zoned for Residential use.

(b) All collections shall be made as quietly as possible. All unnecessarily noisy trucks or equipment for such uses are prohibited.

(c) Collection vehicles must meet the following standards:

(1) All collection vehicles licensed to travel on public streets shall comply with the applicable provisions of the California Vehicle Code, as amended.

(2) All Garbage, Recyclable materials, Clean Green and Organic Waste shall be conveyed in standard industry-type collection vehicles, so when constructed, loaded and maintained there will not be any leakage, spillage or loss of contents therefrom.

(3) All Containers shall be covered while collection vehicles are in operation to prevent spillage and, as far as possible, access thereto by flies, insects, rodents or other vectors.

(4) All collection vehicles operated by authorized Collectors shall be painted in a uniform color to enhance the visibility of the vehicle and distinguish them from other authorized Collectors. Such vehicles shall be numbered in consecutive sequence and shall have



the contractor's name, in-service telephone number, place of business and the number of the vehicle painted in letters of contrasting color on each side and rear of each vehicle. Said rear number, and any cautionary message or device shall be readable from a distance of one hundred (100) feet.

(5) All collection vehicles shall be operated, to the extent practical, without unnecessary noise, disturbance or commotion.

(6) Collectors shall be responsible for picking up all Litter generated from operating collection vehicles.

**8.25.120 Frequency of collection.**

All Refuse from all Residential, Commercial, Industrial and Institutional properties within the city shall be collected at least once a week, unless otherwise approved in writing by the City Manager.

**8.25.130 Liability for payments of service.**

Every person occupying, owning, controlling, or maintaining any premises within the city where a Refuse Container is required to be maintained shall be liable for the applicable Refuse service charges.

**8.25.140 Penalty for failure to pay for refuse service.**

(a) All charges imposed by the City Council for Refuse collection and Disposal service shall be a civil debt owing to the City from the person maintaining or controlling the premises entitled to or receiving the service.

(b) All such charges shall be billed along with the other municipal utility bills and shall be subject to the provisions of the City's utility rules and regulations governing the collection and payment of utility charges.

(c) The collection of the charges imposed pursuant to this section shall be in addition to any other remedies available to the City for the failure of any person to pay said charges.

**8.25.150 Administration by City Manager.**

(a) The City Manager or designee shall apply the proper administration and enforcement of this Chapter; and

(b) The City Manager shall resolve all disputes concerning the administration or enforcement of this Chapter. The City Manager's decision in such matters shall be final.

**8.25.160 Inspection of premises.**

To the extent permitted by law, the City Manager or designee may inspect all premises within the city from time to time and examine the condition of the premises to determine compliance with the provisions of this chapter.

**8.25.170 Disposal of dangerous materials or substances or hazardous wastes.**

(a) No person shall place any explosive, highly flammable, toxic, radioactive material or substance, or Hazardous Waste in any Container with the intent to dispose of said material, substance or Hazardous Waste without first making special arrangements as required by Federal, State, or local law for the collection, storage, transportation and Disposal of such material, substance or Hazardous Waste. For purposes of this chapter, the term "Hazardous Waste" shall be defined as set forth in California Health and Safety Code Section 25117, as amended.

(b) The City may provide by contract or otherwise for a duly licensed local depository or facility to be available to service all the Residential living units in the City in the disposition of "Hazardous Waste" generated on such premises.

(c) The City Council finds that it is beneficial and in the interest of the health, safety and welfare of all persons in the City that Hazardous Waste in Residential units be appropriately

disposed of from the Residential premises all in accordance with the law to any City-provided local depository or facility therefor. Any charge(s) levied pursuant to this section is a charge for the privilege of having such City-provided depository or facility available and is to be paid regardless of whether the privilege is actually used.

(d) All Hazardous Wastes shall be stored, transported and disposed of as required by Federal, State and local law, and all Hazardous Waste shall be deposited at any City-supplied depository or facility.

(e) All charges imposed by the City Council for supplying depository or facility to service Residential living units in the City in the deposition of "Hazardous Waste" shall be a civil debt owing to the City from the person maintaining or controlling the premises entitled to or receiving the service.

(f) All such charges shall be billed along with the other municipal utility bills and shall be subject to the provisions of the City's utility rules and regulations governing the collection and payment of utility charges.

**8.25.180 Property interest in refuse removed.**

All Refuse, upon being removed from the premises where produced or accumulated, shall become and be the property of the Collector immediately upon the collection thereof.

**8.25.190 Authorized persons for refuse collection.**

The City may by contract grant one or more franchises for the collection and disposition of any Refuse within the city limits. Any such franchise may be exclusive or nonexclusive as to the type of Refuse and/or the type of premises covered as the City shall determine. For this purpose contracts may be entered into by the City in the manner authorized by the Charter of the City or by law, including, but not limited to, Section 49300 of the Public Resources Code. The



rights and privileges granted by any contract pursuant to this chapter may not be assigned without the express written consent of the City Council.

**8.25.200 Contract required.**

Except as allowed under SCCC 8.25.050, no person shall engage in the business of collecting, transporting or disposing of any Refuse kept or accumulated in the City unless authorized to do so under and by virtue of a contract then existing between the person and the City. The City may in its discretion and in accordance with SCCC 8.25.190 enter into a contract with any person or persons thereby authorizing such person or persons to engage in the business of collecting, transporting and disposing of Refuse produced, kept or accumulated in the City. Each and every such contract shall describe the terms, conditions, restrictions and limitations as may be deemed necessary or convenient for the preservation, protection or enhancement of the public peace, health, safety and general welfare; provided, that no contract shall be granted without reserving to the City adequate compensation for the privilege conferred. The City may in its discretion periodically seek proposals from Collectors for new contracts.

**8.25.210 Application - Filing, contents.**

The procedure to obtain a contract granting a franchise under this chapter shall be as follows:

(a) Any person desiring an amendment to an existing franchise contract solely for a change in the collection rates contained therein and pursuant to the terms and conditions of said contract shall obtain such amendment by following the procedures as set forth in that contract. The City shall consider such an amendment pursuant to the terms of the contract. No public hearing shall be required unless expressly provided for in such contract and the procedures included in this chapter shall be inapplicable to the extent inconsistent with the contract.

(b) Any person desiring to obtain a contract or an amendment to an existing contract, except as set forth in subsection (a) of this section, shall apply for a contract, which includes an amended contract, for the purpose of providing certain services that the Applicant seeks permission from the City to supply, relating to collecting, transporting, or disposing of Garbage, Recyclable materials, Clean Green or Organic Waste in the City. The Applicant shall apply by filing with the City an application to provide such services. Such application shall include the following:

- (1) The name and address of the Applicant as well as the principal officers and directors of the Applicant if the Applicant is not a natural person;
- (2) The service that the Applicant proposes to provide, the cost of such service, and the terms and conditions of such service;
- (3) The term for which the Applicant desires to engage in business;
- (4) The compensation to be paid by the Applicant for the privilege conferred by the contract;
- (5) An assurance satisfactory to the City Manager that the services proposed do not conflict with the operative provisions of any existing exclusive franchise contract; and
- (6) Any other information required by the City Manager to evaluate the Applicant's qualifications, experience, and financial ability to provide such service.

**8.25.220 Public hearing requirements.**

(a) The City may designate certain date(s) for receipt and/or review of applications, and set application(s) on an appropriate City Council agenda in conformance with such designation.

(b) At the designated time, the City shall notice and provide a public hearing whenever it finds that the application(s) for a Refuse contract is/are completed to its satisfaction, except under the following conditions:

(1) The City determines that the application cannot be approved as applied for without conflict with the operative provisions of an existing exclusive franchise contract; or,

(2) The Applicant does not advance fees required by SCCC 8.25.230.

(c) If the City is not mandated to notice and provide a hearing under subsection (b) of this section, the application shall be deemed rejected and no contract shall be awarded on the basis of such application.

**8.25.230 Duty of applicant - Publication expenses.**

Applicant for a contract shall pay to the City a fee in the form of a sum of money sufficient to reimburse the City for all expenses in connection with the processing of the application, including publication expenses.

**8.25.240 Notice of hearing - Publication of notice - Time for hearing.**

When a public hearing is mandated under SCCC 8.25.220, the application(s) shall be placed on a City Council regular agenda provided that notice of the day, hour and place of the public hearing has been published in a newspaper of general circulation at least once within the ten (10) days prior to the hearing date so that all persons having an interest in granting the contract may appear before the City Council and be heard thereon.

**8.25.250 Public hearing requirements - Protests - Considerations - Grant of contract.**

(a) At the time set for the public hearing for consideration of a pending application for a Refuse contract, if such a hearing is required under this chapter, the City Council shall:



(1) Consider the Applicant's ability to carry out the service proposed to be provided by the contract, the financial and business experience and standing of the Applicant, and any other pertinent factors, including the public interest served; and,

(2) Hear the application and the comments of interested persons.

(b) The City Council may adjourn the public hearing from time to time at the City Council's discretion.

(c) Following the conclusion of the hearing, the City Council shall decide if the contract shall be granted.

(d) Henceforth, a person's acceptance of a franchise by entering into a contract with the City under the provisions of this chapter shall operate as an abandonment of all of that person's pre-existing franchises, rights and privileges in lieu of which the contract is granted, except as expressly provided in such contract.

(e) If the City Council's proffered contract is not accepted by the Applicant by execution within ten (10) days of the City Council's decision to enter into the contract to grant the franchise, the City Council's offer is revoked and the application is denied.

#### **8.25.260 Duty to maintain books.**

Any person holding the privilege granted by a contract pursuant to this chapter shall keep and maintain such books and records as may be required by the City Council as part of said contract. The City shall have free access and the right at any time, to inspect and audit any books and records required to be maintained by the person holding the privilege granted under this chapter and for a period of three years following the expiration or termination of the franchise, whichever occurs first.

**8.25.270 Violation by grantee - Liability for damages to the City - Liability for operating without a contract.**

(a) The grantee of a contract under this chapter shall be liable to the City for all damages proximately caused or resulting from the failure of the grantee to faithfully observe and perform any provisions of such contract and/or any provision of this chapter. If legal proceedings are necessary to enforce the provisions of the contract against any grantee of said contract, said grantee shall be liable for the value of the services of attorneys and of other personnel as well as the expenses of the City that are necessary to gain compliance.

(b) Except as provided in SCCC 8.25.050(b), any person providing services consisting of collecting, transporting, or disposing of Refuse in the City without the benefit of a duly executed contract with the City shall be subject to criminal prosecution for violation of this chapter and shall be liable to the City for the value of the services of attorneys, other personnel, and expense of the City. Such person shall also be liable for the fees the City would have been entitled to if said person had been the duly authorized Collector under contract with the City.

**8.25.275 Mandatory recycling.**

(a) All Responsible Parties of Residential properties are required to subscribe to and maintain Residential Recycling services for each individual household in the dwelling. An exception may be granted at the discretion of the City Manager or the City Manager's designated representative if it is determined there is not sufficient storage space for the Containers at the Residential property.

(b) All Responsible Parties of Commercial Business properties are required to subscribe to and maintain Commercial Recycling services at Commercial Business properties that generate greater than or equal to four cubic yards of Refuse per week. If the Collector transports Containers of Refuse generated at the Commercial Business property to a Material

Recovery Facility for the purposes of Mixed Waste Processing, the Commercial Business property will be deemed to be subscribing to Recycling services. An exception may be granted at the discretion of the City Manager or the City Manager's designated representative if it is determined there is not sufficient storage space for the Containers at the Commercial Business property.

(c) Collectors are prohibited from providing Garbage service to Responsible Parties of Commercial Business properties subject to the mandatory Recycling requirements without providing a Recycling program that includes the collection of a Container no less than thirty-two (32) gallon capacity, provided by the Collector, at least one time per week. The only exceptions to this requirement are the following:

(1) The Collector provides a Mixed Waste Processing program to the Commercial Business in which Refuse Containers are taken to a Material Recovery Facility for processing to remove recyclable and/or Compostable Materials.

(2) The Collector may verify the Responsible Party has implemented and maintains a Recycling program with a different service provider.

(3) The Collector may verify the Responsible Party has been granted an exception to the mandatory Commercial Recycling program from the City Manager or the City Manager's designated representative.

(d) The Disposal of Garbage in Containers designated for Source-separated or Single-stream Recycling and Composting is prohibited.

(e) All new construction and remodeling of existing Residential and Commercial Business structures is required to be designed to adequately store Containers for Garbage, Recycling and Organic Waste, if applicable.



**8.25.276 Mandatory Organic Waste Recycling.**

(a) All Responsible Parties of Commercial Business properties are required to Divert Organic Waste from Landfill by subscribing to an Organics Waste Recycling program that includes collection and Recycling services. If the Collector transports Containers of Refuse generated at the Commercial Business property to a Material Recovery Facility for the purposes of Mixed Waste Processing, the Commercial Business property shall be deemed to be subscribing to organic Recycling services. An exemption may be granted at the discretion of the City Manager or designee if it is determined there is not sufficient storage space for the Containers at the Commercial Business property.

(b) On and after April 1, 2016, Commercial Businesses generating eight (8) cubic yards or more of Organic Waste per week are required to subscribe to and maintain Organic Waste Recycling services.

(c) On and after July 1, 2016, Commercial Businesses at Industrial properties generating four (4) cubic yards or more of Refuse per week are required to subscribe to and maintain Organic Waste Recycling services.

(d) On and after January 1, 2017, Commercial Businesses zoned for non-Industrial use generating four (4) cubic yards or more of Organic Waste per week are required to subscribe to and maintain Organic Waste Recycling services.

(e) On and after January 1, 2019, Commercial Businesses zoned for non-Industrial use generating four (4) cubic yards or more of Refuse per week are required to subscribe to and maintain Organic Waste Recycling services.

(f) All Collectors authorized in accordance with SCCC 8.25.190 are required to provide Organics Waste collection and Recycling services to Commercial Businesses subject to the Organic Waste Recycling requirements set forth in SCCC 8.25.276(a).

(g) All Commercial Businesses that either Self-haul or donate Organic Waste are required to provide satisfactory proof to the City in the form of Disposal or donation receipts.

(h) It shall be unlawful for a Responsible Party to place Refuse that is not Organic Waste or an approved Trash Bag in a Container designated for Organic Waste.

**8.25.280      Recyclable material - Deposit and collection.**

(a) It shall be unlawful to dispose of any material other than Recyclable materials accepted by a Collector in a Container designated for Recycling. The City Manager or designee may mandate an increase of service under SCCC 8.25.090(b) for repeated contamination violations.

(b) Recyclable material set out for collection at Residential properties or other classes of properties (subject to the right of any Collector under such Collector's contract with the City) that may be so designated by the City Council shall become the property of the City, the City's authorized recyclable materials Collector, or a person expressly authorized by the owner or occupant of the properties served, and only these persons shall have the exclusive right to said recyclable material.

(c) It shall be unlawful for any non-designated Collector to remove Recyclable materials that are set out for any City Residential curbside Recycling program or any other Commercial Recycling program. Violators are subject to penalty as provided for in SCCC 8.25.330 ("Violation") and SCCC 8.25.340 ("Violation for Disposal of Refuse").

(d) Various properties and facilities may be approved from time to time by the City as authorized locations for the deposit of Recyclable materials.

**8.25.285 Construction and demolition debris recycling.**

(a) Covered Projects. All construction, demolition and renovation projects within the City, meeting one (1) or more of the following ("covered projects"), shall comply with this section. City Manager or designee

(1) The project is subject to the criteria and requirements specified in the applicable California Green Building Standards Code; or,

(2) The project involves construction, demolition or renovation of 5,000 square feet or more.

(A) For the purposes of determining whether a project meets the foregoing thresholds, all phases of a project and all related projects taking place on a single or adjoining parcel(s), as determined by the City Manager or designee, shall be deemed a single project.

(B) No building, demolition or site development permit shall be issued for a covered project unless and until the Applicant has submitted a Construction and Demolition Debris Materials Check-off List, identifying all waste materials expected to be generated as a result of the project.

(b) Applicants for any covered project are required to recycle or Divert at least fifty percent (50%), or the amounts, criteria and requirements specified in the applicable California Green Building Standards Code, whichever is more restrictive, of materials generated for discard by the project.



(c) Within sixty (60) days after the completion of any covered project, the Applicant shall submit to the City Manager or designee a Construction and Demolition Debris Recycling Report, demonstrating that it has met the diversion requirement for the project.

(d) Any Applicant that fails to meet the diversion mandate in subsection (c) must pay a penalty. The penalty amount shall be equal to the project square footage, multiplied by the difference between the required diversion percentage and the actual project diversion percentage, multiplied by one dollar (\$1.00) per square foot.

(e) Any Applicant that fails to submit the Construction and Demolition Debris Recycling Report within sixty (60) days following completion of the project shall be charged a late fee, in an amount of ten percent (10%) of the diversion penalty fee or one hundred dollars (\$100.00) per month, whichever is greater.

(f) Any Applicant that fails to submit the Construction and Demolition Debris Recycling Report within one hundred twenty (120) days following completion of the project shall be subject to civil or criminal penalties as authorized by SCCC 8.45.010.

#### **8.25.290 Clean Green.**

(a) It shall be unlawful to dispose Green Waste in a Container designated for Garbage or Recycling.

(b) The City Manager or designee may require a single-family or multi-family residence to subscribe to Clean Green collection services.

(c) It shall be unlawful to dispose of any material other than plant material accepted by a Collector in a Container designated for Clean Green. The City Manager or designee may mandate an increase of service under SCCC 8.25.090(b) for repeated contamination violations.

#### **8.25.300 Clean-up Campaign.**

(a) All items must be set out no later than 7:00 AM on the Monday of the designated collection week, but no earlier than the Saturday prior to the designated collection week.

(b) All concrete, asphalt, dirt, brick, rocks, drywall and/or sawdust must be placed in a Bulk Bag to prevent stormwater run-off pollution potential. The placement of these materials directly onto the street is prohibited.

(c) Garbage, medical waste, liquids, paint, house and garden chemicals, cleaners, batteries, ammunition, explosives, auto parts containing fluids, and other Hazardous Waste shall not be placed on the street for collection.

(d) Unwanted material may only be placed in front of the residence that generated the debris. Placing items in front of a neighbor's home will be construed as illegal dumping. Items shall not be set out in front of red-painted curbs, in alleys, private streets, or against fences, retaining walls, hydrants or landscaping.

(e) Residents and businesses that do not subscribe and pay for the Clean-up Campaign program are prohibited from placing debris on the street for collection through the program.

#### **8.25.310 Responsibility for enforcement.**

The primary responsibility for enforcement of the provisions of this chapter shall be vested in the City Manager or designee. In addition, other employees of the City are hereby authorized to act as agents of the City with the power to inspect, issue notices of violation, and write citations for any violation of this chapter, including but not limited to peace officers, building inspectors and/or code enforcement staff.

**8.25.320 Violation.**

It shall be unlawful for any person to violate the provisions of this chapter.

**8.25.330 Violations for disposal of refuse.**

It shall be unlawful for any person or Collector to dispose of Refuse on the land utilized by the City, if any, as an authorized Disposal facility except in compliance with the provisions of this chapter.”

**SECTION 4: Savings clause.**

The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

**SECTION 5: Constitutionality, severability.**

If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.



**SECTION 6: Effective date.**

This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of "The Charter of the City of Santa Clara, California."

**PASSED FOR THE PURPOSE OF PUBLICATION** this 8<sup>th</sup> day of December 2015, by the following vote:

AYES: COUNCILORS: Caserta, Davis, Gillmor, Kolstad, Marsalli and O'Neill  
and Mayor Matthews

NOES: COUNCILORS: None

ABSENT: COUNCILORS: None

ABSTAINED: COUNCILORS: None

ATTEST: \_\_\_\_\_



ROD DIRIDON, JR.  
CITY CLERK  
CITY OF SANTA CLARA

Attachments Incorporated by Reference: None

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